THE HON'BLE Mr. JUSTICE B. SUDERSHAN REDDY

And

THE HON'BLE Mr. JUSTICE S. ANANDA REDDY

W.A. No.2039 of 2005 and W.P.No.23502 of 2005

DATE: 07-11-2005

Between:

Baswarajamma @ Rajeshwari

W/o Late Nagappa, age: 60Yrs.,

Occ: Household, R/o. Hugarpalli Sedam,

Karnataka State.

... Petitioner

AND

Kandanelli Arundamma, W/o late K.Ramulu,

R/o.6-4-82, Nagareswarawada,

Tandur, RR District and two others.

… Respondents

THE HON'BLE Mr. JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE Mr. JUSTICE S. ANANDA REDDY

W.A. No.2039 OF 2005 AND W.P. No.23502 OF 2005

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COMMON JUDGMENT: (Per Hon'ble Mr. Justice B. Sudershan Reddy)

The Writ Appeal and the Writ Petition may have to be disposed of together by common judgment, since the question that arises for our consideration in these matters is one and the same and the parties to the proceedings are also same.

Respondents 1 and 2 herein filed W.P. No.13986 of 2005, questioning the notice, dated 10-06-2005, issued by the 3rd respondent herein, Tandur Municipality, Ranga Reddy District. The case set up by them in the said writ petition is that they have purchased the property in question in Court auction on the file of the learned Subordinate Judge, Vikarabad, on 09-7-1991 and they made an application to the Tandur Municipality, seeking permission to raise constructions in the said property, but the Municipality without considering their application issued the impugned notice.

Learned Judge, even at the stage of admission, according to the learned counsel appearing in the matter, after perusal of the records, issued directions directing the Tandur Municipality to grant permission to make constructions, as prayed for, by the respondents 1 and 2 herein. Learned Judge observed, "I deem it appropriate to allow the writ petition, with a direction to the respondent to consider the applications of the petitioners for grant of permission to make constructions in their properties ....."

There appears to be serious dispute between the appellant and the

respondents 1 & 2 herein with regard to property in question, about which, we do not propose to express any opinion, whatsoever. The fact remains that the appellant herein was not impleaded as party respondent in W.P. No.13986 of 2005. Learned Judge, on the strength of the records allowed the said writ petition, as prayed for, which undoubtedly, adversely affects the rights of the appellant herein. The Municipality is stated to have granted permission vide its proceedings, dated 17-09-2005, pursuant to the directions of the learned single Judge.

In our considered opinion, such direction, resulting in far reaching consequences, could not have been issued by this Court, without hearing the appellant herein.

The question whether respondents 1 and 2 herein are entitled to grant of permission, cannot be gone into by this Court in these proceedings. Interest of justice would be met by directing the Municipality to consider the claims of the parties after providing an opportunity of being heard to both of them and pass appropriate orders, in accordance with law.

The permission already granted in favour of respondents 1 and 2 herein is accordingly set aside. The Municipality shall, now, issue notice to both the parties requiring them to produce the documents in support of their case and dispose of the applications submitted by the respondents herein, in accordance with law, within a period of eight (8) weeks from the date of receipt of a copy of this order.

The Writ Appeal and the Writ Petition are accordingly disposed of. No order as to costs.

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B. SUDERSHAN REDDY, J

Date:07-11-2005.

S. ANANDA REDDY, J

NOTE:

Furnish C.C. of the order by 11-11-2005.

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